

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRANDON JACOB KORTE,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MELISSA MEMMER,

Respondent-Appellant.

UNPUBLISHED

October 4, 2005

No. 258985

Macomb Circuit Court

Family Division

LC No. 03-054741-NA

Before: Saad, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Respondent appeals as of right from an order terminating her parental rights to her minor child, pursuant to MCL 712A.19b(3)(g), (h), (j) and (k)(iii), (v) and (vi). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

This Court reviews a trial court's decision to terminate parental rights for clear error. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests. *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

The trial court did not clearly err in finding the statutory subsections were established by clear and convincing evidence. The evidence was clear that respondent was convicted of first-degree child abuse and assault with attempt to murder as the result of actions that she took against the minor child's half-brother, Tyler. Respondent tied 2-1/2-year-old Tyler's hands behind his back and he was suffocated, resulting in severe brain injury. The minor child was one year old and at home when this occurred. Respondent was sentenced to twenty-five to fifty years in prison for the convictions. Although respondent signed up for some classes when she entered prison in an attempt to comply with the terms of her parent agency agreement and made it clear that she wanted her mother to care for the minor child, she had not seen the minor child for over eighteen months at the time of the termination trial and it was not expected that she would see the minor child at any time during the remainder of his childhood. Based on the gravity of respondent's actions and the long sentence imposed, it would not be reasonable to conclude that

respondent would be able to provide proper care and custody within a reasonable time considering the age of the minor child.

Moreover, based on the actions of respondent, there was a reasonable likelihood that the minor child would be harmed if returned to her care. Putting the minor child in respondent's care after this incident would be unconscionable.

The court also did not clearly err in its best interests determination. Not only did respondent cause serious physical injuries to the minor child's half-brother, the minor child's life was going to be affected forever as a result as well. There was no bond at the time of the termination trial between respondent and the minor child and no evidence was presented that could give even an impression that termination of respondent's parental rights was not in the best interests of the minor child.

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey